

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 JOHN QUINTERO,

5 Plaintiff,

6 v.

7 ROMEO ARANAS, *et. al.*,

8 Defendants.

Case No. 3:17-cv-00066-MMD-CLB

**ORDER GRANTING MOTION
FOR PERMISSIVE JOINDER OR
ALTERNATIVELY SUBSTITUTION**

[ECF No. 250]

9
10 Before the Court is Plaintiff John Quintero's ("Quintero") motion for permissive
11 joinder or alternatively substitution of Warden Olsen to Count VI of his complaint. (ECF
12 No. 250.) Defendants did not oppose or otherwise respond to the motion.

13 On February 10, 2022, this Court granted Quintero's motion for leave to file a third
14 amended complaint. (ECF No. 247.) The third amended complaint, which is the operative
15 complaint in this case, consisted of two claims for relief: (1) an equal protection claim
16 against Defendants Wickham, Calderon, and Burse; and (2) a deliberate indifference claim
17 against Defendants Baca, Wickham, and Perry Russell. (See ECF Nos. 248, 247.)
18 Specifically, Russell was added as a defendant to the third amended complaint as he
19 replaced Baca as Warden of the Northern Nevada Correctional Center ("NNCC") and had
20 the ability to implement the requested injunctive relief. However, after the Court granted
21 the motion for leave to file a third amended complaint, Defendant Russell left NNCC and
22 was replaced by another warden, Olsen. In his motion, Quintero now seeks to join or
23 alternatively substitute Warden Olsen for former Warden Russell. (ECF No. 250.)

24 Fed. R. Civ. P. 20(a)(2) allows persons to "be joined in one action as Defendants if
25 any right to relief is asserted against them jointly, severally, or in the alternative with
26 respect to or arising out of the same transaction, occurrence, or series of actions or
27 occurrences; and any question of law or fact common to all defendants will arise in the
28 action." Fed. R. Civ. P. 25(c) states, "[i]f an interest is transferred, the action may be

1 continued by or against the original party unless the court, on motion, orders the transferee
2 to be substituted in the action or joined with the original party.”

3 For the purposes of judicial economy and to prevent further delay of this case that
4 was filed in 2017, the Court finds substitution under Fed. R. Civ. P. 25(c) to be the proper
5 avenue for which to proceed and will therefore allow Olsen to be substituted for Defendant
6 Russell as to Count VI. Additionally, the Court finds that the motion should be granted
7 based on Defendants’ failure to oppose the motion. See LR 7-2(d) (failure of opposing
8 party to file points and authorities in response to motion constitutes a consent to granting
9 of the motion).

10 Accordingly, **IT IS HEREBY ORDERED** that Quintero’s motion for permissive
11 joinder or alternatively substitution is **GRANTED**. (ECF No. 250.)

12 **IT IS FURTHER ORDERED** that Defendant Olsen will be substituted for Defendant
13 Russell as to Count VI of the Third Amended Complaint.

14 **IT IS FURTHER ORDERED** that within 21 days of the date of entry of this order,
15 the Attorney General’s Office shall file notice advising the Court and Quintero of whether
16 it can or cannot accept service on behalf of Defendant Warden Olsen. If the Attorney
17 General’s Office cannot accept service on behalf of Warden Olsen, the Office shall file,
18 under seal, but shall not serve on Quintero, the last known address of Warden Olsen, if it
19 has such information. If the last known address of Warden Olsen is a post office box, the
20 Attorney General’s Office shall attempt to obtain and provide the last known physical
21 address. If service cannot be accepted for Warden Olsen, Quintero shall file a motion
22 requesting issuance of a summons, specifying a full name and address for Warden Olsen.
23 If the Attorney General has not provided last-known-address information, Quintero shall
24 provide the full name and address for Warden Olsen.

25 **IT IS SO ORDERED.**

26 **DATED:** March 17, 2022.

27 
28 **UNITED STATES MAGISTRATE JUDGE**